



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 25, 1997

Ms. Frances Johnson  
City Secretary  
City of Blue Mound  
301 Blue Mound Road  
Blue Mound, Texas 76131

OR97-2592

Dear Ms. Johnson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111141.

The City of Blue Mound (the "city") received a request for "[a]ll documents dealing with studies of the ditch behind Globe," and related information. In response to the request, you submitted to this office for review the information you assert is responsive. You seek to withhold the submitted information pursuant to section 552.106 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that to the extent that the substance of a proposed budget item has been revealed to the public, there is no rational basis for subsequently withholding such information from the public. *See generally* Open Records Decision No. 412 (1984) (generally any information contained in requested letter and supplementary memoranda which has already been disclosed to the public, either in public board meetings or in some other manner, may not be withheld under the attorney-client privilege), Open Records Decision No. 137 (1976) at 5 and authorities cited therein (when agency chooses to adopt or incorporate by reference intra-agency memorandum in explaining in public basis of decision made, exception is waived and information to which it referred must be made public). Therefore, we conclude that to the extent that the substance of the proposed budget item has been revealed to the public you may not withhold the disclosed information from the requestor under section 552.106.

We now consider your claim that the information requested is protected from disclosure by section 552.106 of the Government Code. This section excepts "[a] draft or working paper involved in the preparation of proposed legislation." Section 552.106 protects the internal deliberative processes of a governmental body in enacting legislation. Open

Records Decision No. 248 (1980). It does not, however, except basically factual information. Open Records Decision No. 344 (1982). Although section 552.106 is designed to encourage frank discussion on policy matters between subordinates or advisors of a legislative body, it is specifically applicable only to the "preparation of proposed legislation." Open Records Decision No. 429 (1985) at 5.

In your brief to this office, you claim that the submitted information, including "a proposed city budget that contain [sic] raw numbers," is subject to section 552.106. Open Records Decision No. 460 (1987) (proposed budget constitutes recommendation by its very nature and may be withheld under section 552.106). Although you contend that the project at issue "will require final Council approval before work begins," we note that the submitted records do not contain any city budget information nor raw numbers. Open Records Decision No. 429 (1985). In this instance, based on the city's letter and the submitted documents, we conclude that the information is not the type of information protected under section 552.106 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Sam Haddad". The signature is fluid and cursive, with a large initial "S" and a stylized "H".

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/rho

Ref: ID# 111141

Enclosures: Submitted documents

cc: Ms. Jeannie Gonzales  
608 Globe  
Blue Mound, Texas 76131  
(w/o enclosures)